

Securities and Exchange Commission

§ 200.313

the Commission's records will be provided by a commercial copier or by the Commission at rates established by a contract between the copier and the Commission.

(b) *Waiver or reduction of fees.* Whenever the Privacy Act Officer determines that good cause exists to grant a request for reduction or waiver of fees for copying documents, he or she may reduce or waive any such fees.

(Pub. L. 87-592, 76 Stat. 394, 15 U.S.C. 78d-1, 78d-2; Pub. L. 93-502; 11 U.S.C. 901, 1109(a))

[42 FR 56727, Oct. 28, 1977, as amended at 47 FR 26819, June 22, 1982; 49 FR 12686, Mar. 30, 1984; 50 FR 50287, Dec. 10, 1985; 65 FR 55186, Sept. 13, 2000]

§ 200.311 Penalties.

Title 18 U.S.C. 1001 makes it a criminal offense, subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years or both, to knowingly and willingly make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. 5 U.S.C. 552a(i) makes it a misdemeanor punishable by a fine of not more than \$5,000 for any person knowingly and willfully to request or obtain any record concerning an individual from the Commission under false pretenses. 5 U.S.C. 552a(i) (1) and (2) provide criminal penalties for certain violations of the Privacy Act by officers and employees of the Commission.

§ 200.312 Specific exemptions.

Pursuant to section (k) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(a) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the following systems of records maintained by the Commission shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) and 17 CFR 200.303, 200.304, and 200.306, insofar as they contain investigatory materials compiled for law enforcement purposes:

- (1) Enforcement Files;
- (2) Office of General Counsel Working Files;

(3) Office of the Chief Accountant Working Files;

(4) Name-Relationship Index System;

(5) Rule 102(e) of the Commission's Rules of Practice—Appearing or Practicing Before the Commission; and

(6) Agency Correspondence Tracking System.

(b) Pursuant to 5 U.S.C. 552a(k)(5), the systems of records containing the Commission's (1) Office of Personnel Code of Conduct and Employee Performance Files and (2) Personnel Security Files shall be exempt from sections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act, 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f), and 17 CFR 200.303, 200.304, and 200.306 insofar as they contain investigatory material compiled to determine an individual's suitability, eligibility, and qualifications for Federal civilian employment or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(Pub. L. 93-579, Sec. k, 5 U.S.C. 552a(k))

[40 FR 44073, Sept. 24, 1975, as amended at 52 FR 2677, Jan. 26, 1987; 54 FR 24332, June 7, 1989; 54 FR 46373, Nov. 3, 1989; 60 FR 32795, June 23, 1995; 65 FR 55186, Sept. 13, 2000]

§ 200.313 Inspector General exemptions.

(a) Pursuant to section (j) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i), and 17 CFR 200.303, 200.304, 200.306, 200.307, 200.308, 200.309 and 200.310, insofar as

§ 200.400

the system contains information pertaining to criminal law enforcement investigations.

(2) [Reserved]

(b) Pursuant to section (k) of the Privacy Act of 1974, the Chairman of the Securities and Exchange Commission, with the concurrence of the Commission, has deemed it necessary to promulgate the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of Inspector General of the Commission that contains the Investigative Files shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) and 17 CFR 200.303, 200.304, and 200.306, insofar as it contains investigatory materials compiled for law enforcement purposes.

(2) [Reserved]

[55 FR 19872, May 14, 1990]

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

AUTHORITY: 5 U.S.C. 552b, unless otherwise noted. Section 200.410 also is issued under 29 U.S.C. 794.

SOURCE: 42 FR 14693, Mar. 16, 1977, unless otherwise noted.

§ 200.400 Open meetings.

Except as otherwise provided in this subpart, meetings of the Commission shall be open to public observation.

§ 200.401 Definitions.

As used in this subpart:

(a) *Meeting* means the joint deliberations of at least the number of individual members of the Securities and Exchange Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 200.42 or § 200.43 (respecting seriatim and duty officer disposition of Commission business, respectively), or by §§ 200.403, 200.404, or 200.405 (respecting whether particular Commission deliberations shall be open or closed and related matters).

17 CFR Ch. II (4–1–02 Edition)

(b) *Portion of a meeting* means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meetings described in § 200.403.

(c) *Open*, when used in the context of a Commission meeting or a portion thereof, means that the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting, consistent with the provisions of § 200.410 (respecting decorum at meetings and other related matters).

(d) *Closed*, when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of a meeting.

(e) *Announce*, and *make publicly available*, when used in the context of the dissemination of information, mean, in addition to any specific method of publication described in this subpart, that a document containing the information in question will be posted for public inspection in, or adjacent to, the lobby of the Commission's headquarters offices, and will be available to the public through the Commission's Public Reference Section and the Commission's Office of Public Affairs, all in Washington, DC

(f) The term *likely to*, as used in § 200.402, illustrating the circumstances under which Commission meetings may be closed, and the circumstances in which information may be deleted from the notice of Commission meetings, means that it is more probable than not that the discussion of Commission business, or publication of information, reasonably could encompass matters which the Commission is authorized, by the Government in the Sunshine Act, Pub. L. 94-409, as implemented by this subpart, to consider or discuss at a closed meeting (or a closed portion of a meeting).

(g) The term *financial institution*, as used in § 200.402(a), authorizing the closure of certain Commission meetings, includes, but is not limited to, banks, savings and loan associations, credit unions, brokers and dealers in securities or commodities, exchanges dealing in securities or commodities, national securities associations, investment